

RESOLUTION NO. 88- 133

BEFORE THE CITY COUNCIL OF THE CITY OF  
LODI, CALIFORNIA

A RESOLUTION APPOINTING ENGINEER AND ATTORNEY

TURNER ROAD AND CLUFF AVENUE ASSESSMENT DISTRICT NO. 1  
(REASSESSMENT AND REFUNDING OF 1988)

RESOLVED, by the City Council of the City of Lodi, California, that

WHEREAS, said Council intends to undertake reassessment proceedings for the refund and retirement of bonds previously issued and outstanding, and the issuance of refunding bonds to provide the costs thereof; and

WHEREAS, the public interest and general welfare will be served by appointing and employing an engineer and attorney for the preparation and conduct of said proceedings;

NOW, THEREFORE, IT IS ORDERED that:

1. MORTON & PITALO, INC., Sacramento, California, be, and it is hereby, appointed and employed to do and perform all engineering work necessary in and for said proceedings, and that its compensation be assessed as an incidental expense thereof.
2. TIMOTHY J. HACHMAN, Stockton, California, be and he is hereby appointed and employed to do and perform all legal services required in the conduct of the proceedings, including the preparation of all papers not required to be prepared by the Engineer (exclusive of printing and preparation of bonds, bond and auditor's register, printing, mailing and publication of notices), examining and approving the engineering documents, advising the Engineer in the preparation of his work, advising all City officials on all matters relating thereto when called upon, and furnishing his legal opinion on the validity of said proceedings and bonds, and that his compensation be assessed as an incidental expense of said proceedings. The Agreement for Legal Services by and between the attorney and the City of Lodi presented herewith is hereby approved, and the City Manager is hereby authorized to execute the agreement on behalf of the City of Lodi, and the City Clerk is hereby authorized to attest his signature.

DATED: September 28, 1988.

I, ALICE M. REIMCHE, City Clerk of the City of Lodi, do hereby certify that Resolution No. 88- 133 was passed and adopted at a regular meeting of the City Council of the City of Lodi, held September 28, 1988, by the following vote:

AYES: Councilmembers - Hinchman, Reid, Snider and Pinkerton (Mayor)

NOES: Councilmembers - None

ABSENT: Councilmembers - Olson

ABSTENTIONS: Councilmembers - None

  
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ALICE M. REIMCHE, City Clerk

AGREEMENT FOR LEGAL SERVICES

TURNER ROAD AND CLUFF AVENUE ASSESSMENT DISTRICT NO. 1  
(REASSESSMENT AND REFUNDING OF 1988)  
CITY OF LODI  
SAN JOAQUIN COUNTY, CALIFORNIA

THIS AGREEMENT is made and entered into this 28th day of September, 1988, at Lodi, California, by and between the CITY OF LODI, a municipal corporation of the State of California (the "City"), and TIMOTHY J. HACHMAN, Attorney at Law, Stockton, California ("Attorney").

RECITALS:

1. City proposes to institute reassessment and refunding proceedings for calling bonds previously issued in a special assessment district ("District") for the acquisition and construction of public improvements, and to finance the cost thereof by the issuance of refunding bonds under the Refunding Act of 1984 for 1915 Act Improvement Bonds (the "Act") as contained in Division 11.5 of the Streets and Highways Code (commencing with § 9500) (the "Act").
2. City requires the advice and assistance of bond counsel in said proceedings, and the public interest and convenience will be served by this Agreement.

COVENANTS:

The parties hereto mutually agree as follows:

1. RESPONSIBILITIES AND COMPENSATION OF ATTORNEY:

- A. Attorney shall consult with City's administrative officers and assist in the formulation of a coordinated financial, engineering and legal program for the proceedings, and perform the following services:
  - (1) Confer with City's engineer as to the sufficiency of the engineering documents to be prepared in said proceedings, review the documents for compliance with law, and provide such legal forms as may be required for legal adequacy.
  - (2) Prepare all resolutions, notices, affidavits, consents, waivers, and documents of a legal nature necessary for the conduct of an effective, legal bond proceeding, together with instructions as to filing and recording maps and documents, and publication, posting and/or mailing of any such documents to assure jurisdiction at any public hearing.

- (3) Attend all meetings of the City Council or other public bodies relating to the proceedings and other public or staff meetings deemed necessary for the proper conduct of the proceedings, or when called upon by City, and obtain and assist in the presentation of substantial evidence to support any findings made by the Council at the conclusion of any public hearing.
  - (4) Confer with and advise City and its Engineer concerning the report required under the Act, and the issuance of refunding bonds for financing the call of the prior bonds issued and the reassessment proceedings.
  - (5) Confer with and advise City and its Underwriter with respect to the sale of the bonds, and the printing and delivery of the bonds; prepare and provide receipts and closing documents as required to accompany the delivery of the bonds; provide his legal opinion approving the legality of the proceedings for the authorization, issuance, sale and delivery of the bonds.
- B. Compensation for the above services shall be the sum of Twelve Thousand Dollars (\$12,000.00).
- (1) The foregoing compensation is payable and shall be paid solely from the proceeds of bonds to be issued pursuant to said proceedings, and City incurs no obligation to pay said compensation from any other source.
  - (2) The foregoing compensation does not include any services to be rendered by Attorney relating to acquisition of lands, easements, or properties, or in eminent domain proceedings or any other litigation involving the City or directed by City to be undertaken by Attorney. Compensation for any such excluded services which Attorney is directed to render shall be made on a reasonable fee basis to be agreed upon.
  - (3) Attorney shall be reimbursed from the bond proceeds for the direct cost of clerical and word processing services, long distance telephone tolls, filing, recording, printing and/or publication costs or fees incurred in rendering the required services enumerated under subparagraph A above.

C. Attorney is authorized at his discretion to contract with JONES, HALL, HILL & WHITE of San Francisco as special tax counsel for their assistance if and as required in the conduct of the proceedings and issuance of bonds; any compensation to be paid to such special tax counsel is to be at the expense of bond counsel with no further expense to City as a result of such contract.

2. RESPONSIBILITIES OF CITY:

The City shall cooperate with the Attorney and shall furnish Attorney with certified copies of all proceedings taken by the City, or other documents deemed necessary by Attorney to render an opinion upon the validity of the proceedings, and shall pay to the Attorney from the proceeds of the bonds issued the compensation and costs incurred by the Attorney as set forth in paragraph 1 above.

3. AUTHORITY OF ATTORNEY:

It is understood that neither the Attorney, nor any individual representing the Attorney, possesses any authority with respect to any decision of the City Council or any City official, beyond the rendition of information, advice, recommendation, or counsel.

4. TERMINATION OF AGREEMENT:

This Agreement may be terminated by the City by giving written notice to the Attorney with or without cause, or may be modified by mutual consent of the parties at any time. In the event of termination, all finished and unfinished documents, exhibits, project data, reports, and evidence shall, at the option of City, become its property and shall be delivered to City by the Attorney.

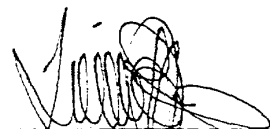
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF LODI

By   
THOMAS A. PETERSON,  
City Manager

ATTEST:

  
ALICE M. REIMCHE, City Clerk

  
TIMOTHY J. NACHMAN, Attorney